

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In re: §
Taveras Family Investments Corp. § Case no. 23-32627
§ Chapter 11
Debtor in Possession § Subchapter V

**EMERGENCY MOTION OF DEBTOR TO USE CASH COLLATERAL
AND REQUEST FOR AN EMERGENCY ORDER TO USE CASH
COLLATERAL ON AN INTERIM BASIS**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 14 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

Emergency (or expedited) relief has been requested. If the Court considers the motion on an emergency (or expedited) basis, then you will have less than 21 days to answer. If you object to the requested relief or if you believe that the emergency (or expedited) consideration is not warranted, you should file an immediate response.

MOVANT REQUESTS AN EMERGENCY HEARING BY JULY 21, 2023.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Taveras Family Investments Corp. (“Debtor”), through its counsel, Attorney Thomas F. Jones III (“Proposed Counsel”), and files this Emergency Motion to Use Cash Collateral and Request for an Emergency Order to Use Cash Collateral on an Interim Basis and in support thereof Debtor would show:

Jurisdiction

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 157 and § 1334.
2. This is a core proceeding pursuant to 28 U.S.C. 157(b)(2)(A) and (M).
3. Venue is proper before this Court pursuant to 28 U.S.C. § 1408 and § 1409.
4. The Court has constitutional authority to enter a final order with respect to this Motion. A Motion to Use Cash Collateral has no equivalent in state law, thereby rendering the Supreme Court's opinion in *Stern v. Marshall* inapplicable. *See In re Carlew*, 469 B.R. 666, 672 (Bankr. S.D. Tex. 2012) (discussing *Stern v. Marshall*, 564 U.S. 462 (2011)). In the alternative, it is an essential part of the public bankruptcy scheme and triggers the "public rights" exception. *Id.*

Background

5. Debtor commenced this case by filing a voluntary Chapter 11 Petition on July 12, 2023.
6. Debtor continues to operate its business as Debtor in Possession pursuant to 11 U.S.C. § 1182(1), § 1182(2) and § 1184 of the Bankruptcy Code.
7. A search in the Texas Secretary of State shows that allegedly secured positions are held by US Foods, Inc. (UCC Filing 22-0022199360) and E Advance Services (UCC Filing 23-0023575481). A copy of the UCC Lien Search is attached as Exhibit A.

Relief Requested

8. Debtor has operated a restaurant for approximately 6 months located at 2016 N Frazier St, Conroe, Montgomery County, Texas 77301.
9. Attached as Exhibit B is Debtor's 14 Day Budget which is representative of Debtor's ongoing income and expenses.

10. Debtor requests permission to utilize the income and cash assets during the period subsequent to this interim period and before confirmation of a plan to continue to operate the restaurant so that Debtor can reorganize in accordance with that Projection.

Need for Emergency Consideration

11. If Debtor is not granted permission to use cash collateral immediately, irreparable harm will result to Debtor's ability to operate its restaurant and maintain the ongoing business.

12. Debtor does not propose to sell, dispose of, or otherwise alienate in any way fixed assets, fixtures, or equipment that secure any obligation to a secured creditor without further court order.

13. No examiner or creditors' committee has been appointed in the Debtor's Chapter 11 case.

14. As adequate protection for the use of cash collateral, Debtor shall agree, with Court approval, that any liens of US Foods, Inc. and E Advance Services will attach to property acquired after the petition date in the same extent, validity, and priority, as existed on the petition date.

15. The adequate protection payment shall be applied to the amount owed the creditor. Any payments made in excess of a creditor's approved claim or to an unsecured party may be subject to turnover in the future under 11 U.S.C. § 549(a)(2)(A).

16. Notice of this Motion has been provided to the United States Trustee, the Cash Collateral Creditors, the Subchapter V Trustee, each party on the Creditor Matrix, and all parties who have requested special notice. Debtor submits that no other or further notice need be provided.

WHEREFORE, Debtor respectfully requests that the Court consider this Motion on an emergency basis, conduct a preliminary hearing and grant his Emergency Motion to Use Cash Collateral and Request for an Emergency Order to Use Cash Collateral on an Interim Basis.

Thereafter, Debtor requests the Court set a final hearing for no earlier than 15 days after service of the Motion and grant its request to use cash collateral in ongoing operations during the administration of the case and for such other further relief as is just.

Dated: July 17, 2023

Respectfully submitted,

Law Office of Thomas F. Jones III

By: /s/ Thomas F. Jones III
Thomas F. Jones III
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Federal I.D. 2048
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(832) 200-3524 Facsimile
tfjpacer@gmail.com Email
Proposed Counsel for Debtor

CERTIFICATE OF CONFERENCE

I, Attorney Thomas F. Jones III certify that on July 17, 2023, I had electronic communications with US Foods, Inc. through its Attorney Brian Shaw at bshaw@cozen.com regarding this Motion. I have not received a response as to whether this Motion is opposed or unopposed.

I, Attorney Thomas F. Jones III certify that on July 17, 2023, I had electronic communications with E Advance Services through its Attorney Douglas Robinson at rtr@rtrrecoveryllc.com regarding this Motion. I have not received a response as to whether this Motion is opposed or unopposed.

EXHIBIT A

TEXAS SECRETARY of STATE
JANE NELSON

Debtor Name Search

This debtor name search was performed on **07/11/2023 08:56 PM** with the following search parameters:

DEBTOR NAME: TAVERAS FAMILY INVESTMENTS CORP

CITY: [Not Specified]

Order	View	Filing Number	Filing Type	Filing Date	Pages	Lapse Date
<input type="checkbox"/>		22-0022199360	Financing Statement	05/03/2022 10:13 AM	1	05/03/2027

Debtor TAVERAS FAMILY INVESTMENTS CORP 3711 BELT LINE RD
ADDISON, TX, 75001

Secured Party US FOODS, INC. 9399 WEST HIGGINS ROAD
ROSEMONT, IL, 60018

Order	View	Filing Number	Filing Type	Filing Date	Pages	Lapse Date
<input type="checkbox"/>		23-0023575481	Financing Statement	05/30/2023 11:56 AM	3	05/30/2028

Debtor TAVERAS FAMILY INVESTMENTS CORP 1843 STRONGS CT
KATY, TX, 77449

Debtor RODEOS CONROE 1 LLC 2016 N FRAZIER ST
CONROE, TX, 77384

Debtor ANTHONY SAWYER 1843 STRONGS CT
KATY, TX, 77449

Debtor ONEIDA M TAVERAS 1843 STRONGS CT
KATY, TX, 77449

Secured Party E ADVANCE SERVICES 370 LEX AVE SUITE 801
NY, NY, 10017

Select All Filings:

Instructions:

- Press 'New Search' if you wish to perform another web inquiry.
- Press 'Previous' or 'Next' to scroll through the results of this inquiry.
- Enter the page number and click 'GO' button to view the desired page.
- Press 'Order Search Certificate' if you wish to order a search certificate with the parameters entered for this web inquiry.
- If you wish to order only selected filings for this debtor, check by the filings and press 'Order Selected Filings'.
- Checked filings will be retained from page to page as you scroll through the results of this inquiry.
- If an order for a search certificate or selected filings is placed against this web inquiry, the web inquiry fee will be waived.
- Check 'Select All Filings' and press 'Order Selected Filings' if you wish to order copies of all filings and full filing history for the results of this web inquiry.
- To view a particular filing document, click on the image under 'View' for the desired document.

EXHIBIT B

TAVERAS FAMILY INVESTMENTS CORP
Forcasted Budget
July 17, 2023 to July 31, 2023

	July 17-23	July 24-30	Total
Income			
4000 Income			
Misc Income	3,250.00	3,250.00	\$6,500.00
Total Income	\$ 3,250.00	\$ 3,250.00	\$6,500.00
Total Income	\$ 3,250.00	\$ 3,250.00	\$6,500.00
Expenses			
7300 Rent & Lease	0.00	0.00	\$0.00
7400 Utilities			
7410 Water	0.00	0.00	\$0.00
7420 Gas/CO2		0.00	\$0.00
7430 Electricity	0.00	0.00	\$0.00
7445 Cable/Internet	0.00	0.00	\$0.00
7816 General Repairs	0.00	0.00	\$0.00
7940 Due and Subscriptions	0.00	0.00	\$0.00
7950 Office Supplies & Software	0.00	0.00	\$0.00
7955 Equipment & Supplies	0.00	0.00	\$0.00
8000 Ask My Accountant	0.00	0.00	\$0.00
8015 Meals & Entertainment	0.00	0.00	\$0.00
8100 Bank Charges & Fees	0.00	0.00	\$0.00
8112 Merchant Services	0.00	0.00	\$0.00
8150 Cash Over / Under	0.00	0.00	\$0.00
8830 Miscellaneous Expense	0.00	0.00	\$0.00
8851 Legal	0.00	0.00	\$0.00
8853 Accounting	0.00	0.00	\$0.00
8920 Line Service	0.00	0.00	\$0.00
8930 Outside Services/Grease Trap	0.00	0.00	\$0.00
Adequate Protection Payments	0.00	0.00	\$0.00
Total Expenses	\$ 0.00	\$ 0.00	\$0.00
Net Operating Income	\$ 3,250.00	\$ 3,250.00	\$6,500.00
Net Income	\$ 3,250.00	\$ 3,250.00	\$6,500.00